

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 695 of 2012**

Petar Variha @ Mukesh Variha S/o Shri Surdan Variha, Aged about 28 years
R/o Magardarha (Kouha junwani), P.S. Bilaigarh, Distt. Raipur (Now Baloda-
Bazar, Bhatapara) (C.G.).

---- Appellant

Versus

State of Chhattisgarh through Bilaigarh, Distt. Raipur (Now Baloda Bazar-
Bhatapara) (C.G.).

---- Respondent

For Appellant	:	None
For Respondent	:	Mr. Shubham Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

13/01/2020

1. By the impugned judgment dated 07/08/2012 passed in Sessions Trial No. 119/2011 by the First Additional Sessions Judge, Baloda Bazar, Distt. Raipur (Now Baloda Bazar, Bhatapara) (C.G.), the Appellant has been convicted under Section 307 of the IPC and sentenced to undergo RI for 7 years and to pay fine of Rs. 300/- with default stipulation.
2. Facts of the case are that the Appellant is husband of Injured Phirmoti. Their marriage was solemnized prior to 8 years of the incident. It is alleged that the Appellant used to drink liquor and used to commit Marpeet with his wife i.e. Injured. On 07/11/2008, the Appellant had quarreled with the Injured and had assaulted her. Thereafter, she called her parents and had gone to her paternal house along with them. It was further story of the Prosecution that on 10/11/2008, the Appellant had gone to the house of the Injured and asked her to go with him, but she refused to go. On 12/11/2008, when the the Injured

was sleeping with her mother, the Appellant entered into her house and assaulted her by a Tangiya with an intention to commit her murder. The Injured sustained injuries on her head. The incident was witnessed by the parents and brother of the Complainant. Darasram, brother of the Injured lodged the report. Statement of the witnesses were recorded under Section 161 of the Cr.P.C. After completion of trial, a charge-sheet has been filed. As many as 9 prosecution witnesses have been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter. One defence witness has been examined.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 03/09/2015.
5. Since no one appears on behalf of the Appellant, therefore, I am going to decide this appeal on its merit.
6. I have heard Learned Counsel appearing for the State and perused the record.
7. In her Court statement, Phirmoti (PW2) has deposed that after her marriage, the Appellant used to harass her and used to commit Marpeet with her. One day also, he came after consuming liquor and committed Marpeet with her. On the next day, she went to her paternal house. She further deposed that the Appellant came there to take her with him, but she refused to go with him. Thereafter, on the date of

incident, she was sleeping with her mother. The Appellant entered into her house and assaulted her by a Tangiya which caused injury on her forehead and she became unconscious. Tangiya got stuck in her forehead, due to which she lost vision of her one eye. The incident was witnessed by her mother and brother. Her above statement is duly corroborated by his brother Daras Ram (PW1), Lakhan Lal (PW3) and Laxmin Bai (PW4). In her dying declaration (Ex.P-3) also, Phirmoti Bai (PW2) supported the case of the Prosecution. This witness was medically examined by Dr. Supreeti Sharma (PW9). Her MLC report is Ex.P-8. At the time of examination, she found lacerated wound size 8X2X2 cm up to bone on the right side forehead, up to medial end of right eye. Due to the said injury, bone of skull was looking. There was swelling in both the eyes. She opined that the injury has been caused within 6 hours. The Injury has been caused by hard and blunt object. Thus, from the medical report also, it is established that Phirmoti (PW2) sustained injuries on the vital part of the body which was caused by hard and blunt object. All the witnesses including the Injured were remained firm during their cross-examination. Therefore, from the entire evidence produced by the prosecution, offence under Section 307 of the IPC is duly proved against the Appellant. The trial Court has rightly convicted and sentenced the Appellant.

8. Consequently, I do not find any merit in this appeal. The same is dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**